

191—104.5 (516E) A service company's use of surety bond in lieu of reimbursement insurance policy.

104.5(1) In lieu of obtaining a reimbursement insurance policy as required by Iowa Code section 516E.2, a service company may file with the division a surety bond. The surety bond shall be in the form as directed by the division and as available on the division's Web site.

104.5(2) A surety bond claimant, for purposes of this rule, includes any service contract holder whose service contract predates the effective date of the surety bond or was executed during the surety bond's period of coverage and whose service contract has not been rescinded, fulfilled, or secured by another bond or by other insurance.

104.5(3) Except as provided in Iowa Code section 516E.4 and subrule 104.5(6), no suit or action shall be commenced by a surety bond claimant later than one year after the expiration date of the surety bond.

104.5(4) Any surety bond claimant as set forth in subrule 104.5(2) may maintain an action on the surety bond. A surety's aggregate liability shall not exceed the penal sum of the bond.

104.5(5) A surety shall not cancel a surety bond except upon written notice of cancellation given by the surety to the division by certified mail. The effective date of the cancellation shall not be less than 60 days after the division receives the surety's notice. The surety shall specify the reason for the cancellation.

104.5(6) The surety shall not be liable for any surety bond claim related to the service company's insolvency or cessation of business unless the surety claim is made within five years of the date of insolvency or business cessation.

104.5(7) If the surety notifies the service company that the surety intends to cancel a surety bond, the service company, within 30 days, shall submit to the division a substitute surety bond or reimbursement insurance policy.

104.5(8) A service company seller shall maintain an adequate surety bond and shall continuously monitor the surety amount to assure its adequacy. The surety bond amount shall be calculated based on the value of the service contracts sold and not performed or canceled and for which no trust fund or insurance is in place.